



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 8, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: SUP-32144 - APPLICANT: TCB LAS VEGAS, LLC - OWNER: MUSTANG MAN, LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Supper Club use, including parking requirements.
2. Conformance to the Conditions of Approval for Site Development Plan Review [Z-0045-88(16)] shall be required, if approved.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. Approval of this Special Use Permit does not constitute approval of a liquor license.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. Prior to obtaining a Certificate of Occupancy, a barrier sufficient to prevent access to the bar area by minors shall be constructed between the bar area and the restaurant.
7. The live entertainment shall be ancillary (incidental) to the Supper Club. If the applicant desires live entertainment to become a principal use (more than 3 days a week), a Special Use Permit will be necessary prior to such change.
8. Replace any deleted required handicapped accessible parking spaces in accordance with Title 19.10.010 that have been removed from the site prior to issuance of certificate of occupancy.
9. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit at 6750 West Sahara Avenue for a proposed Supper Club with a Waiver to allow a zero-foot separation from a Church where 400 feet is required. The applicant proposes a 160-seat Supper Club in an existing 6,325 square-foot building that has previously been operated as a Supper Club. The subject site is within zero feet of an existing church where 400 feet is required; therefore, staff recommends denial of the request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
07/06/88	The City Council approved a Rezoning (Z-0045-88) from N-U (Non Urban) to C-1 (Limited Commercial) for this site as a part of a larger request. The Planning Commission and staff recommended approval.
04/13/95	The Planning Commission approved a Plot Plan Review [Z-0045-88(16)] for a 5,900 and 6,600 square-foot Supper Clubs. The Planning Commission recommended approval.
05/17/95	The City Council approved a Special Use Permit (U-0045-95) for a Supper Club. The Zoning Board of Adjustment recommended approval.
05/19/04	The City Council approved a Special Use Permit (SUP-3986) for a Supper Club and a Waiver from the 400-foot distance separation requirement from an existing church at 6750 West Sahara Avenue. The Planning Commission recommended approval of this request.
07/07/04	The City Council denied a Special Use Permit (SUP-3972) for an Off-Premise Advertising (Billboard) Sign at 6750 West Sahara Avenue. The Planning Commission recommended denial of this request.
08/02/06	The City Council withdrew without prejudice a Special Use Permit (SUP-13383) for a proposed 40-foot high, 14-foot x 48-foot Off-Premise Advertising (Billboard) Sign at 6750 West Sahara Avenue. The Planning Commission recommended denial of this request.
08/01/07	The City Council tabled a Special Use Permit (SUP-19103) for a proposed Auto Dealer Inventory Storage location with a Waiver of the requirement that stored vehicles be effectively screened so as not to be visible from adjoining properties or public right-of-way and a Review of Condition (ROC-19273) of an approved Reclassification of Property (Z-0045-88) to allow Auto Dealer Inventory Storage where the original condition stated that there shall be no outdoor storage of any kind at 6750 West Sahara Avenue. The Planning Commission recommended denial of these requests.

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10/01/07	A Code Enforcement case (#48107) was resolved for the illegal storage of vehicle inventory at 6750 West Sahara Avenue.
07/17/08	A Code Enforcement case (#67793) was resolved for off-premises signage at 6750 West Sahara Avenue.
<i>Related Building Permits/Business Licenses</i>	
02/05/96	Building permits (#96391302 and #96391303) were issued for On-Site improvements and a New Building at 6750 West Sahara Avenue. The project was completed on 08/12/96.
05/03/96	A building permit (#96008846) was issued for a Wall at 6750 West Sahara Avenue. The project was completed on 08/12/96.
05/09/96	A building permit (#96009315) was issued for a Free-Standing Pylon Sign at 6750 West Sahara Avenue. Permit expired on 02/15/97.
01/03/01	A building permit (#01000059) was issued for the replacement of a Pylon Sign (#04980) at 6750 West Sahara Avenue. This project was completed on 02/14/01.
01/23/04	A building permit (#01001252) was issued for a Tenant Improvement for a Restaurant at 6750 West Sahara Avenue. This project was completed on 02/21/01.
05/18/04	A building permit (#04012813) was issued for a Sign (#07628) at 6750 West Sahara Avenue. The project was completed on 10/18/04.
06/03/04	A building permit (#04014209) was issued for a Sign (#07658) at 6750 West Sahara Avenue. Permit expired on 04/16/05.
06/28/04	A building permit (#04016416) was submitted for a Tenant Improvement for a Restaurant at 6750 West Sahara Avenue. This project was completed on 08/20/04.
08/25/04	A business license (#L21-00041) was issued for a Supper Club at 6750 West Sahara Avenue was issued for Props Mongolian Grill. The license was marked inactive due on 04/23/08 to vacancy at 6750 West Sahara Avenue.
12/16/08	A business license (#R09-96060) was requested for a Restaurant Seating 45 or more at 6750 West Sahara Avenue and is pending review.
12/16/08	A business license (#L21-96062) was request for a Supper Club and is pending the action on the subject Special Use Permit application.
<i>Pre-Application Meeting</i>	
10/24/08	The requirements for a Special Use Permit application for the Supper Club use were discussed with the applicant.
<i>Neighborhood Meeting</i>	
A meeting was not held, nor was one required.	
<i>Field Check</i>	
12/04/08	Staff noted required handicapped spaces painted over/marked out. While the landscaping appears to be maintained, staff noted trees and shrubs in the landscape islands and along the northern property line were dead or missing.

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Details of Application Request	
Site Area	
Gross Acres	1.44

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Commercial Building	SC (Service Commercial)	C-1 (Limited Commercial)
North	Condominiums	M (Medium Density Residential)	R-PD16 (Residential Planned Development – 16 Units per Acre)
South	Motor Vehicle Sales	Clark County	C-2 (General Commercial – Clark County)
East	Church/House of Worship	SC (Service Commercial)	C-1 (Limited Commercial)
	Auto Repair		
West	Supper Club	SC (Service Commercial)	C-1 (Limited Commercial)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	N/A
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance	X		Y*

***INTERAGENCY ISSUES**

Pursuant to Ordinance No. 5477, the proposed project is deemed to be a “Project of Regional Significance” for the following reasons:

1. Any Special Use Permit within 500’ of unincorporated Clark County

An Environmental Impact Assessment questionnaire was circulated to the affected Agencies and Entities for the mandated 15-day period and no significant issues have been identified.

The Planning Commission is to consider the Environmental Impact Assessment and the proposed mitigation measures prior to making a decision on the proposal.

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DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

As shown in Table 12-12, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	221,051 SF	1 Space / 250 SF of GFA	867	18	1,131	41	Y
TOTAL			885		1172		Y*

**During a site visit staff noted that the required handicapped parking space has been removed, and a condition requiring re-striping to be in compliance with all Title 19.10 parking requirements has been added.*

Waivers		
Request	Requirement	Staff Recommendation
To allow a zero-foot distance separation where 400 feet is required between a Super Club and a church.	No supper club use shall be located within 400-feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City park.	Denial

Waiver Information for Distance Separation			
Type of Use	Name (License #)	Required Distance	Distance Provided
Church	N/A	400 Feet	0 Feet

ANALYSIS

The applicant is proposing a 6,325 square-foot Supper Club with seating for 160 outside of the bar area. The existing building will remain as it is on the site, with no exterior modification other than anticipated changes to the signage and any necessary minor repairs to the existing façade.

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The proposed floor plan includes a lounge and bar area, customer waiting area with hostess stand, multiple dining areas with a centrally located stage area for live entertainment. Should this request be approved, a condition has been added to address the concern of live entertainment. If the live entertainment becomes more than an incidental use, a Special Use Permit for a Night Club use will be necessary. The proposed location is part of a 221,051 square-foot commercial Shopping Center, which adequately supplies the amount of parking required for this site. During a site visit, staff noted that the required handicapped parking has been removed, and conditions requiring compliance with all Title 19.10 parking requirements have been added. Staff also noted that the parking area landscaping as well as landscaping in the buffer has been removed and/or allowed to die.

- **Zoning**

The subject site is currently designated SC (Service Commercial), which is within the Southwest Sector of the General Plan. The site's C-1 (Limited Commercial) zoning district is in conformance with the General Plan, and the Supper Club use is permitted in that district with the approval of a Special Use Permit.

The C-1 (Limited Commercial) district is intended to provide most retail shopping and personal services, and may be appropriate for mixed use developments. This proposed site is located along a primary thoroughfare (Sahara Avenue) and is part of a major retail corridor.

- **Use**

A Supper Club is defined by Title 19 as a restaurant and bar operation with alcoholic beverage sales in which:

1. The bar area is separated from the restaurant area by a barrier sufficient to prevent access to the bar by minors;
2. The actual seating available at all times within the restaurant area will accommodate at least one hundred twenty-five persons;
3. Alcoholic beverages are served in the restaurant area only in conjunction with the service of food;
4. Full-course meals are available during all hours the bar area is open to the public;
5. A cook and food server, other than a bartender, are available at all times the bar area is open to the public; and
6. The restaurant operation is the principal portion of the business.

- **Minimum Special Use Permit Requirements**

Title 19.04.010 lists the following conditions for the Supper Club use.

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1. No supper club use shall be located within 400-feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City Park.
2. Except as otherwise provided in Requirement 3 below, the minimum distances referred to in Requirement 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed Supper Club which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed Supper Club. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term “property line” refers to property lines of fee interest parcels and does not include the property line of:
 - a. Any leasehold parcel; or
 - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.
3. In the case of a Supper Club proposed to be located on a parcel of at least 80 acres in size, the minimum distances referred to in Requirement 1 shall be measured in a straight line:
 - a. From the nearest property line of the existing use to the nearest portion of the structure in which the Supper Club will be located, without regard to intervening obstacles, or nearest property line of a leasehold or occupancy parcel in which the Supper Club will be located, without regard to intervening obstacles.
 - b. In the case of a proposed Supper Club which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property line of a leasehold or occupancy parcel in which the Supper Club will be located, without regard to intervening obstacles.
4. When considering a Special Use Permit application for a Supper Club which also requires a waiver of the distance limitation in Requirement 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reasons in support of the decision.

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- *5. In the O District, a Supper Club is permitted only as an accessory use.
- *6. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50.
- *Any condition with an asterisk cannot be waived.

The proposed fails to meet condition #1 of the Supper Club use, as the location is within zero feet from a church where 400 feet is required. Therefore, staff recommends denial of the request.

FINDINGS

The following findings must be made for a Special Use Permit:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The subject site is adjacent to a Church. Title 19.04 requires a 400-foot minimum distance separation between the Supper Club use and Churches. Based on the request for a Waiver, staff finds the proposed use is too intense for the subject location, and would not be harmonious with the adjacent church use.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The proposed site is within a commercial Shopping Center that was designed to accommodate a variety of uses, including a Supper Club.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

Access to the site is via driveways from West Sahara Avenue, a 100-foot wide Primary Arterial according to the Master Plan of Streets and Highways, which is adequate to facilitate all traffic generated by the proposed use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

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If approved, the establishment must comply with Chapter 6.50 of the Municipal Code, as well as section 268.090 of the Nevada Revised Statutes, which further governs the sale and distribution of alcoholic beverages. Should the proposed use be approved for the subject site, the location would be subject to City of Las Vegas, Southern Nevada Health District and State of Nevada inspections.

5. The use meets all of the applicable conditions per Title 19.04.

The use does not meet all Title 19.04 conditions. Title 19.04 requires a 400-foot minimum distance separation between the Supper Club use and Churches. The subject site is zero feet from a church, failing to meet condition #1 for the use.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

4

ASSEMBLY DISTRICT 5

SENATE DISTRICT 8

NOTICES MAILED 201

APPROVALS 0

PROTESTS 0